

SENATE BILL 221

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SB 523/02 - EHE

2003 Regular Session
3r1656
CF 3r2405

By: **Senator Conway**
Introduced and read first time: January 29, 2003
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: February 25, 2003

CHAPTER _____

1 AN ACT concerning

2 **Nonresident Real Estate Brokers - Commercial Real Estate - Reciprocity**

3 FOR the purpose of adding a new part to a certain subtitle of the Business
4 Occupations and Professions Article; requiring a nonresident real estate broker
5 to meet certain conditions in order to engage in a commercial real estate
6 transaction in this State; requiring a certain written application to be submitted
7 to the State Real Estate Commission before a nonresident real estate broker
8 may provide services; requiring a nonresident real estate salesperson to meet
9 certain conditions in order to provide certain real estate services in this State;
10 establishing a fee for a temporary license; imposing certain reciprocity
11 requirements; allocating certain trust money to be received and deposited in a
12 certain fund; designating the Executive Director of the State Real Estate
13 Commission as the agent for certain real estate brokers and salespersons with
14 regard to a subpoena, summons, or other process; defining certain terms; and
15 generally relating to nonresident real estate brokers.

16 BY adding to
17 Article - Business Occupations and Professions
18 Section 17-536 through 17-540, inclusive, to be under the new part "Part IV.
19 Nonresident Commercial Real Estate Brokers"
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2002 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Business Occupations and Professions**

2 PART IV. NONRESIDENT COMMERCIAL REAL ESTATE BROKERS.

3 17-536.

4 (A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (B) "COMMERCIAL REAL ESTATE" MEANS:

7 (1) REAL PROPERTY IMPROVED BY FIVE OR MORE SINGLE-FAMILY
8 UNITS;9 (2) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR
10 COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING
11 AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS
12 LOCATED; AND13 (3) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT AS
14 MULTIFAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR
15 MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

16 (C) "COMMERCIAL REAL ESTATE" DOES NOT INCLUDE:

17 (1) PROPERTY ZONED FOR AGRICULTURAL USE; OR

18 (2) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR CO-OP
19 UNIT, FOR SALE OR FOR LEASE, OR OTHERWISE CONVEYED OR TO BE CONVEYED ON
20 A SINGLE BASIS.21 (D) "NONRESIDENT REAL ESTATE BROKER" MEANS AN INDIVIDUAL,
22 PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, LIMITED LIABILITY
23 PARTNERSHIP, OR CORPORATION THAT IS NOT LICENSED UNDER SUBTITLE 3 OF
24 THIS TITLE BUT IS LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES IN A
25 JURISDICTION OTHER THAN THIS STATE.26 (E) "NONRESIDENT REAL ESTATE SALESPERSON" MEANS AN INDIVIDUAL
27 WHO IS NOT LICENSED UNDER SUBTITLE 3 OF THIS TITLE BUT IS LICENSED TO
28 PROVIDE REAL ESTATE BROKERAGE SERVICES AND IS AFFILIATED WITH A
29 NONRESIDENT REAL ESTATE BROKER.

30 17-537.

31 (A) A NONRESIDENT REAL ESTATE BROKER MAY ENGAGE IN A TRANSACTION
32 UNDER THIS TITLE WITH RESPECT TO COMMERCIAL REAL ESTATE LOCATED IN THIS
33 STATE AND RECEIVE COMPENSATION PROVIDED THE NONRESIDENT REAL ESTATE
34 BROKER:

1 (1) PROVIDES REAL ESTATE BROKERAGE SERVICES THROUGH A REAL
2 ESTATE BROKER LICENSED UNDER THIS TITLE;

3 (2) ENTERS INTO A WRITTEN AGREEMENT WITH A LICENSED REAL
4 ESTATE BROKER IN THIS STATE WHICH:

5 (I) SPECIFIES THE TERMS OF COOPERATION AND COMPENSATION
6 AND INCLUDES A STATEMENT BY THE NONRESIDENT REAL ESTATE BROKER THAT
7 THE NONRESIDENT REAL ESTATE BROKER AND THE NONRESIDENT REAL ESTATE
8 SALESPERSONS LICENSED AND AFFILIATED WITH THE NONRESIDENT REAL ESTATE
9 BROKER WILL BOTH ADHERE TO THE LAWS OF THIS STATE AND THIS TITLE; AND

10 (II) ALLOCATES THE RESPONSIBILITY FOR THE ACTIONS OF THE
11 NONRESIDENT REAL ESTATE BROKER IN THE TRANSACTION; AND

12 (3) COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS
13 SECTION.

14 (B) BEFORE A NONRESIDENT REAL ESTATE BROKER MAY PROVIDE REAL
15 ESTATE BROKERAGE SERVICES IN THIS STATE, THE NONRESIDENT REAL ESTATE
16 BROKER SHALL MAKE WRITTEN APPLICATION TO THE COMMISSION INCLUDING:

17 (1) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
18 NONRESIDENT REAL ESTATE BROKER;

19 (2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE BUSINESS
20 ENTITY THROUGH WHICH THE NONRESIDENT REAL ESTATE BROKER PROVIDES
21 REAL ESTATE BROKERAGE SERVICES;

22 (3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH
23 NONRESIDENT REAL ESTATE SALESPERSON WHO WILL OFFER OR PROVIDE REAL
24 ESTATE BROKERAGE SERVICES IN THIS STATE ON BEHALF OF THE NONRESIDENT
25 REAL ESTATE BROKER;

26 (4) A COPY OF THE AGREEMENT REQUIRED BY SUBSECTION (A) OF THIS
27 SECTION;

28 (5) WRITTEN EVIDENCE THAT THE NONRESIDENT REAL ESTATE
29 BROKER AND EACH NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER
30 PARAGRAPH (3) OF THIS SUBSECTION, ARE DULY LICENSED IN ANOTHER
31 JURISDICTION, AND THAT THE LICENSE IS VALID, CURRENT, AND ACTIVE;

32 (6) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
33 BROKER, INDIVIDUALLY AND ON BEHALF OF THE BUSINESS ENTITY, AND BY EACH
34 NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER PARAGRAPH (3) OF THIS
35 SUBSECTION, THAT SERVICE OF PROCESS ON THE EXECUTIVE DIRECTOR OF THE
36 COMMISSION SHALL BIND THE APPLICANT IN ANY ACTION, SUIT, OR PROCEEDING
37 BROUGHT AGAINST THE BROKER OR SALESPERSON;

1 (7) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
2 BROKER AND BY EACH NONRESIDENT SALESPERSON LISTED UNDER PARAGRAPH (3)
3 OF THIS SUBSECTION, TO SUBMIT TO THE JURISDICTION OF THE COMMISSION FOR
4 THE PURPOSES OF DISCIPLINARY ACTION UNDER § 17-322 OF THIS TITLE;

5 (8) ANY OTHER INFORMATION THAT IS REQUESTED BY THE
6 COMMISSION; AND

7 (9) A TEMPORARY LICENSE FEE OF \$45.

8 (C) THE COMMISSION SHALL ISSUE A TEMPORARY LICENSE TO A
9 NONRESIDENT REAL ESTATE BROKER WHO COMPLIES WITH THE REQUIREMENTS OF
10 THIS SECTION IF THE JURISDICTION IN WHICH THE REAL ESTATE BROKER HOLDS A
11 CURRENT LICENSE ALLOWS A MARYLAND BROKER TO OBTAIN A TEMPORARY
12 LICENSE UNDER SIMILAR CIRCUMSTANCES.

13 17-538.

14 (A) UPON APPROVAL BY THE COMMISSION, A NONRESIDENT REAL ESTATE
15 BROKER MAY ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO
16 COMMERCIAL REAL ESTATE.

17 (B) A NONRESIDENT REAL ESTATE SALESPERSON LICENSED IN ANOTHER
18 JURISDICTION AND AFFILIATED WITH A NONRESIDENT REAL ESTATE BROKER MAY
19 ENGAGE IN A TRANSACTION IN THIS STATE WITH RESPECT TO COMMERCIAL REAL
20 ESTATE IF:

21 (1) THE NONRESIDENT REAL ESTATE SALESPERSON IS LICENSED WITH
22 AND PROVIDES REAL ESTATE BROKERAGE SERVICES UNDER THE DIRECT
23 SUPERVISION OF THE NONRESIDENT REAL ESTATE BROKER;

24 (2) THE NONRESIDENT REAL ESTATE BROKER SATISFIES THE
25 REQUIREMENTS OF § 17-537 OF THIS SUBTITLE; AND

26 (3) THE NONRESIDENT REAL ESTATE SALESPERSON PROVIDES REAL
27 ESTATE BROKERAGE SERVICES IN THE NAME OF THE NONRESIDENT REAL ESTATE
28 BROKER.

29 17-539.

30 ALL TRUST MONEY PAID ON ACCOUNT OF A TRANSACTION INVOLVING
31 COMMERCIAL REAL ESTATE IN THIS STATE SHALL BE RECEIVED AND DEPOSITED IN
32 THE TRUST ACCOUNT OF THE MARYLAND BROKER IN ACCORDANCE WITH PART I OF
33 THIS SUBTITLE.

34 17-540.

35 BY FILING THE WRITTEN CONSENT REQUIRED UNDER § 17-537(B)(6) OF THIS
36 SUBTITLE, THE NONRESIDENT REAL ESTATE BROKER OR NONRESIDENT REAL

1 ESTATE SALESPERSON APPOINTS THE EXECUTIVE DIRECTOR OF THE COMMISSION
2 AS AGENT TO RECEIVE A SUBPOENA, SUMMONS, OR OTHER PROCESS.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2003.